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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

In re:

LIONEL, SAWYER & COLLINS, LTD.,

Debtor.

Case No. 2:17-cv-00036-GMN-NJK

YVETTE WEINSTEIN,
CHAPTER 7 TRUSTEE,

Plaintiff,

vs.

AMERICAN LEGION CHINA POST 1 –
THE GENERALS WARD & CHENNAULT
& LT. HELSETH POST, a Texas nonprofit
corporation; and H. OWNBY, temporary
trustee of The Fischer Trust,

Defendants.

Bankruptcy Case No. BK-S-15-10462-MKN
Chapter 7
Adversary Proceeding No. 16-01123-MKN

STIPULATION AND ORDER TO STAY FURTHER PROCEEDINGS
PENDING APPROVAL OF SETTLEMENT AGREEMENT

Plaintiff YVETTE WEINSTEIN, Chapter 7 Trustee for the bankruptcy estate of Lionel Sawyer & Collins, Ltd. (the "Trustee"), by and through her counsel, Schwartzter & McPherson Law Firm, and Defendants AMERICAN LEGION CHINA POST 1 – THE GENERALS WARD AND CHENNAULT & LT. HELSETH POST ("China Post"), and Kerry Kilburn as temporary trustee of THE FISCHER TRUST DATED NOVEMBER 21, 1988 (the "Fischer Trust"), by and through their counsel, the law firm of Marquis Aurbach Coffing, hereby stipulate and agree as follows:

1 WHEREAS, on January 30, 2015, Lionel Sawyer & Collins, Ltd. (“LS&C”), filed a
2 voluntary Petition for Relief under Chapter 7 of the Bankruptcy Code (Title 11 of the United
3 States Code) (“Petition Date”) and that case is pending in the United States Bankruptcy Court,
4 District of Nevada (the “Bankruptcy Court”) as case number 15-10462-MKN, and Yvette
5 Weinstein is the duly appointed and acting Chapter 7 Trustee for the bankruptcy estate; and

6 WHEREAS, on November 22, 2016, the Trustee filed a complaint in Bankruptcy Court
7 against China Post and the Fischer Trust (referred to collectively as the “Defendants”)
8 commencing Adversary Proceeding No. 16-01123-MKN seeking judgment for recovery of certain
9 attorney’s fees and costs (the “Trustee’s Claim”).

10 WHEREAS, on February 8, 2018, reference of the Trustee’s Claim was withdrawn from
11 the Bankruptcy Court pursuant to 28 U.S.C. §157(f) and the litigation was moved to United States
12 District Court, District of Nevada, as Civil Case No. 2-17-cv-00036 where it has subsequently
13 been litigated by the Parties. Certain scheduling deadlines have been set [ECF No. 10] but a trial
14 date has not been scheduled at this time; and

15 WHEREAS, the Trustee and Defendants have reached a tentative settlement agreement
16 (the “Settlement Agreement”) and the Trustee has filed a motion in Bankruptcy Court for approval
17 of the agreement pursuant to Fed.R.Bankr.P. 9019. The hearing for this motion is set for
18 November 28, 2018.

19 WHEREAS the Trustee and Defendants have agreed to stay further proceedings in this
20 action, including any pending discovery, for 60 days pending approval of the settlement agreement
21 by the Bankruptcy Court. This time period should allow sufficient time for the Bankruptcy Court
22 to approve the settlement, and for the settlement to be funded. Upon approval and funding, the
23 Trustee’s Claim will be dismissed.

24 **BASED UPON THE FOREGOING**, the Trustee and the Defendants stipulate and agree:

25 1. That all discovery and further proceedings in this case shall be stayed for 60 days
26 pending Bankruptcy Court approval and funding of the Settlement Agreement; and

27 2. That a status hearing may be scheduled at the Court’s convenience for a date and
28 time no sooner than 60 days (the “Status Hearing”); and

3. That the Status Hearing may be vacated if the Settlement Agreement is approved and this case (Civil Case No. 2-17-cv-00036) is dismissed in the meantime.

Dated: November 13, 2018

Dated: November 7, 2018

Jason A. Innes, Esq.
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Counsel for Plaintiff

Terry A. Coffing, Esq.
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Counsel for Defendants

ORDER

Based upon the foregoing Stipulation and good cause appearing,

IT IS HEREBY ORDERED that all discovery and further proceedings in this case shall be stayed for 60 days pending Bankruptcy Court approval and funding of the Settlement Agreement; and

IT IS FURTHER ORDERED the Court will issue a new Order setting a Status Hearing (in no less than 60 days) at which the Court will set a trial date and reset all other related trial and scheduling deadlines; and

IT IS FURTHER ORDERED that the Status Hearing may be vacated if the Settlement Agreement is approved and this case (Civil Case No. 2-17-cv-00036) is dismissed prior to the Status Hearing.

IT IS SO ORDERED:

DATED this 21 day of November, 2018.


Gloria M. Navarro, Chief Judge
UNITED STATES DISTRICT COURT

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